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Liquor Taxes and the Bootlegger

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**A Report Prepared for the Committee on Liquor Control
Legislation of the National Municipal League**

Frank O. Lowden, Chairman
Luther Gulick, Secretary

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Statement and Recommendations of the Committee

THE bootlegger is still with us. He continues to operate for one reason, and one reason alone—*profits*. The profit in illegal liquor arises primarily from tax evasion. High taxation thus becomes the chief foundation of the illegitimate trade in alcoholic beverages.

This is no new discovery. It was well known before prohibition; it was presented forcefully before repeal in "Toward Liquor Control," by Fosdick and Scott; it was dealt with by this Committee in its presentation of the Model Liquor Law;¹ it was discussed with the committees of the Congress; it was widely commented upon by the press.

The general idea that high taxes promote evasion cannot be disputed. Facts, however, are scarce. There are no satisfactory statistics with reference to the activities of the bootleggers, no reliable estimates of the quantity of illegal liquor, and no trustworthy guess as to the loss to the public treasury through tax evasion. It is possible, however, on the basis of known facts with reference to the seizure of stills, the consumption of legal beverages, the payment of taxes, and the extent of smuggling to draw estimates and inferences with regard to the underlying facts. With this in mind, the Committee on Liquor Control Legislation of the National Municipal League has asked Dr. Paul Studenski, professor of economics at New York University, to examine the situation and bring together at least tentative estimates of the extent of the flow of illegal liquor, and to indicate some of the basic facts of bootlegger economics which the public, the legislators, and the tax officials should have before them in approaching the revision of liquor taxes, during the coming sessions of the state and federal

legislatures. The report to the Committee by Professor Studenski, somewhat edited and curtailed for lack of space, is presented herewith. While the facts he presents are subject to various interpretations in certain respects and not all of the inferences he draws are accepted by all members of the Committee, no one can doubt the main conclusion that the combined federal and state taxes on hard liquor and on imported beverages are so high under existing conditions as to immensely increase the difficulty of suppressing the illegal alcohol trade.

RECOMMENDATIONS

The Committee therefore recommends:

1. The reduction of the tariff on alcoholic beverages either through an amendment to the tariff act or through the exemption of such beverages from a further internal revenue levy.

2. The lowering of the combined federal and state levy on hard liquor to not more than \$2.00 per gallon. This will not reduce the revenue but will in all probability increase the yield.

3. The establishment of full coöperation in liquor taxation between the federal and state governments through a joint administration of liquor tax laws.

4. No reduction for the time being in the tax on beer.

5. The levy of all federal and state gallonage taxes on the basis of absolute alcoholic content so as not to penalize dilution as at present.²

6. The amendment of liquor license laws to provide higher licenses for the large retailers than for the small retailers in accordance with the general plan outlined in the Model Law.

For the Committee:

FRANK O. LOWDEN, *Chairman*
LUTHER GULICK, *Secretary*

¹Liquor Control: Principles, Model Law. A Report of the Committee on Liquor Control Legislation of the National Municipal League. Supplement to the NATIONAL MUNICIPAL REVIEW, January 1934, Volume XXIII.

²For discussion of this principle see "A New Deal in Liquor—a Plea for Dilution" by Vandell Henderson (Doubleday Doran, 1934), and Chapter VII, "Toward Liquor Control," Fosdick and Scott (Harper and Brothers, 1933).

Liquor Taxes and the Bootlegger

A Report prepared
for the Committee on
Liquor Control Leg-
islation of the Na-
tional Municipal
League

PAUL STUDENSKI

New York University

WHEN the Ways and Means Committee of Congress was framing a policy of taxation of alcoholic beverages in the fall of 1933, in anticipation of the repeal of prohibition, it had before it various estimates of the probable revenue that might be raised from this source for the federal treasury. The most conservative estimates placed this revenue at \$450,000,000, whereas some of the most sanguine ones put it in the neighborhood of \$800,000,000. We have now available the figures of the collections of revenue from this source for the first ten months since repeal. They show conclusively that the revenue will be below even the most

conservative estimates, and will amount to only approximately \$395,000,000 per annum. (See Table I.)

This low yield is due apparently to two factors which were not, or could not be, taken into account at the time the aforementioned estimates were made: (1) a very real and substantial reduction in the consumption of alcoholic beverages as a result of the business depression or possibly due to habits developed during prohibition, and (2) the continued consumption of tax free bootleg liquor.

The figures of revenue collections have disclosed, moreover, one other totally unexpected development: liquor

TABLE I
FEDERAL, STATE AND LOCAL REVENUES FROM THE TAXATION OF ALCOHOLIC BEVERAGES IN 1914 AND 1934, RESPECTIVELY. Population 1914: 97,927,000; 1934: 128,000,000¹

	Total Revenue		Per Capita Revenue	
	1914	1934	1914	1934
Federal Internal Taxes				
liquor	\$159,098,177	\$125,000,000	\$1.62	\$.98
wine	none	5,000,000	—	.04
beer	67,081,512	230,000,000	.68	1.80
Total	226,179,689	360,000,000	2.30	2.82
Federal Customs Duties				
liquor	10,673,307	30,000,000	.11	.23
wine	6,436,668	5,000,000	.06	.04
beer	1,950,608	—	.02	—
Total	19,060,583	35,000,000	.19	.27
Total Federal	245,240,272	395,000,000	2.49	3.09
State and local revenues				
liquor, wine, and beer	79,516,989	106,000,000	.81	.86
Total Federal, state and local	324,757,262	501,000,000	3.31	3.91

¹The figures for 1914 are taken from the Bulletin, "Alcoholic Beverages," issued by the U. S. Tariff Commission in 1933. Those for 1934 are based on the figures presented in Tables VIII and IX below. Local revenues are included in the 1934 figures only in so far as they are collected by the state governments and apportioned among localities. The sums collected by localities themselves in license fees are not included, since their amounts cannot be ascertained.

is producing now only about two-thirds as much revenue as beer—\$155,000,000 a year against \$230,000,000—whereas before prohibition it produced two and a half times as much as beer—in 1914, for example, \$170,000,000 against \$69,000,000. The relative importance of these two classes of revenue has become reversed.

This reversal in the position of the two classes of revenue is due to the fact that (1) the drop in consumption has been much more pronounced, apparently, in the case of liquor than in that of beer, and (2) the rates of taxation for beer have been increased much more substantially over the 1914 than have the rates for liquor. Beer is now taxed at \$5.00 per barrel by the federal government instead of \$1.00 as in 1914. Liquor, on the other hand, is taxed at \$2.00 a gallon, instead of at \$1.10 as before.

THE CONSUMPTION OF TAX PAID
ALCOHOLIC BEVERAGES

That the American people drink much less today than they did before prohibition seems apparent from ordinary observation and from statistical data. The bars or saloons in some localities are not as filled as they were before prohibition. The number of intoxicated persons encountered on the street in New York, for example, is relatively small. In many restaurants dispensing beer, wine and liquor, only

25 to 50 per cent of the people order drinks with their food, compared with 50 to 75 per cent in comparable restaurants in the pre-prohibition days. A sample inquiry undertaken in the present study among the passers-by at a busy corner of the City of New York revealed the following results: Of 62 persons approached, 30 said they did not drink. Of the 30, only one claimed moral objections; three believed it to be physically harmful even in moderation; four did not like the taste; and the balance just had no desire to try to drink. An inquiry conducted by four investigators among the residents in their districts into the expenditures for alcoholic beverages of the ordinary clerk and working man revealed that these expenditures were relatively moderate. These very minor studies are cited here not as adequate proof but merely as slight corroborative factors.

The most convincing indication that the consumption of alcohol may have dropped considerably since the days before prohibition is found in the statistics of withdrawal of tax paid beer for consumption in 1914 and 1934, respectively. These statistics show a drop in the per capita consumption of beer from 20.92 gallons in 1914 to 9.37 gallons in 1934, or to less than one-half. (See Table II). Inasmuch as there is very little bootlegging of beer today and there was little of it, if any, in 1914, these figures can be accepted as reliable and comparable. In the compu-

TABLE II
CONSUMPTION OF TAX PAID ALCOHOLIC BEVERAGES IN THE UNITED STATES IN 1914
AND 1934, RESPECTIVELY. Population 1914: 97,927,000; 1934: 128,000,000¹

	Total (thousand gallons)		Per capita (gallons)	
	1914	1934	1914	1934
Consumption of domestic beverages				
liquor	133,000	45,000	1.35	.35
wine	44,974	17,000	.45	.13
beer	2,048,659	1,200,000	20.32	9.37
Consumption of imported beverages				
liquor	4,107	6,000	.04	.05
wine	7,903	3,000	.08	.02
beer	7,171	—	.07	—
Total, domestic & imported beverages				
liquor	137,104	51,000	1.40	.40
wine	52,877	20,000	.53	.15
beer	2,055,829	1,200,000	20.99	9.37

¹Based on figures presented in tables VII and XIII below. The figures for 1934 are estimated.

tations of these figures the total population of the country was taken for each year. If we were to take only the population in the wet areas for both periods, we would find that the drop in the per capita consumption of beer in these areas has been even greater, for the wet areas in 1914 contained only about one-half the population of the country, whereas today the wet areas contain about three-fourths of the country's population. In other words, the consumption in wet areas dropped from a per capita of 40 gallons a year to one of 13 gallons, or to one-third. To what extent this may represent a shift to bootleg liquor no one can tell.

The statistics of withdrawal of tax paid liquor and wine for consumption purposes show even a greater drop per capita from 1914 to 1934 than do the same statistics for beer. The per capita consumption of tax paid liquor is shown by these figures (Table II) to be only 29 per cent of what it was in 1914, and that of wine 28 per cent. However, these statistics are not indicative of the total consumption of liquor and wine in the country, since a considerable quantity of liquor consumed today is bootleg in character and a large quantity of wine is produced by the consumers themselves nowadays at their own homes as a result of the experience gained by thousands of them in the art of wine-making during prohibition.

The production of wine at home for home use is not generally illegal, the loss of public revenue occasioned by it is unimportant, and its social consequences are in no way adverse. Hence, we need not be concerned with it. Traffic in bootleg liquor, however, is a serious matter from any one of these points of view, and deserves, therefore, extended consideration in this study. It is important for the formulation of a sound policy of taxation of liquor to have fair estimates of the total con-

sumption of liquor in this country, including the bootleg kind.

BOOTLEG CONSUMPTION BRINGS LOSSES OF PUBLIC REVENUE

Repeal has materially diminished bootlegging, but it has not eliminated it altogether. That bootlegging still continues on a substantial scale is well indicated by the figures of seizures of illicit stills, smuggled liquor, and arrests for violations of the internal revenue and customs laws.

Let us first turn to the figures of seizures of smuggled liquor, since they can be disposed of quickly. A recent press release by the Bureau of Customs (September 20, 1934) shows that the number of seizures on the Canadian border dropped from 1,553 in August 1933 to 30 during the same month in 1934, and those on the Pacific Coast from 161 to 8. Apparently, little liquor is now being smuggled across these borders. On the other hand, along the Atlantic Coast smuggling continues as actively as before, the number of seizures in August 1934 being the same as during the same month a year ago (140); and the activity along the Mexican border is even greater than before, the number of seizures having increased there from 214 to 230. The activity along this border is due apparently to the fact that the states adjacent to Mexico still prohibit the sale of liquor. The total number of seizures, along all the borders combined, has dropped since repeal to about one-third the number effective before repeal. It may be concluded from this fact that the volume of bootleg importations today is but one-third of its pre-repeal level.

The statistics of seizures of illicit stills are far more important than those of the other seizures just reviewed since bootleg consumption is concerned mainly with the domestic product.

The seizures of illicit stills have averaged for all the states combined 1,250 a month for the five months of May to September 1934 inclusive. (See Table IV.) They ran somewhat lower during the first five months after repeal, but the enforcement division was then very small. At this rate the number of seizures of illicit stills for the year would aggregate 15,000 or about two-thirds the number of annual seizures during the last years of prohibition, which averaged 23,000. (See Table III.)

It is significant that most of the seizures have taken place in dry states, although the population of these states is but one-fourth of the total population of the country. (See Table IV.) The number of seizures in dry states is about as large now as it was before repeal. (See Table V.) Apparently, there is as much bootleg production and consumption in the dry states now as before. It seems probable also that these dry states export some of their illicit products to the wet states, and, on the other hand, import from the wet states much legitimate tax paid liquor. A new type of illegitimate exchange is thus taking place today between the wet and dry states.

The statistics of the seizures of illicit stills for the past ten or more years (Table III) suggests that indirectly at least there is probably some correlation between the number of stills seized and the activity of the bootleg industry. The number of stills seized during the years of prosperity was on the whole considerably greater than the number seized during the years of depression. This drop may have reflected a decrease in activities of bootleggers during the depression, for the bootleg industry must have suffered from the depression just as any other industry. Indirectly, these figures confirm the hypothesis advanced above that the consumption of

liquor has declined substantially during the past few years in consequence of the depression.

Throughout this entire period there have been important fluctuations both in the size of enforcement staffs and in the vigor of enforcement policy. These variations may invalidate or substantially alter the hypotheses here advanced. The statistics in Table III and Table IV reveal, for example, that there is correlation between the number of seizures of illicit stills and the energy displayed by the enforcement division of the government in the prosecution of its work. The number of seizures dropped steeply in 1933 and especially in 1934, when the staff of enforcement officers was materially reduced and when those retained on the payroll relaxed their efforts to suppress illicit operations, in anticipation of the ratification by the people of the constitutional amendment doing away with prohibition. In April 1934 the Bureau of Internal Revenue increased the number of investigators in the Alcohol Tax Unit from 468 to 703, and in May to 1,337. Immediately the number of seizures increased from 650 in March to more than 800 in April, and to an average of 1,250 in each of the succeeding months.

It would probably be unfair to assume from the fact that the number of seizures of illicit stills has decreased only about one-third since the last years of prohibition that illicit production of liquor has decreased only that much since repeal. Some allowance must be made for the greater activity of enforcement officers and the lesser tendency of the people generally nowadays to countenance bootlegging, at least in states permitting traffic in liquor. A fairer estimate of the illicit production and consumption of liquor would be that it is but one-half as large today as it was before repeal. This would indicate that the consumption of bootleg liquor, both

domestic and smuggled, in this country, may be nearly as large today as the consumption of the tax paid product.

Another method of computing the

consumption of bootleg liquor in the country is by estimating the total production capacity of illicit stills in operation in the country. The results of such

TABLE III
NUMBER OF ILLICIT STILLS SEIZED DURING THE YEARS 1926-1934¹

Fiscal Year	Number of Illicit Stills Seized
1926	24,475
1927	26,393
1928	35,200
1929	27,336
1930	24,318
1931	21,541
1932	23,165
1933	16,602
1934	9,237
1935 (estim.)	15,000

¹Compiled from U. S. Bureau of Industrial Alcohol—"Statistics concerning Intoxicating Liquor," December 1933 and the weekly press releases, 1934, of the United States Alcohol Tax Unit. This drop was due to a heavy reduction in the number of federal enforcement officers during the first half of the fiscal year 1934.

TABLE IV
SEIZURES OF ILLICIT STILLS IN WET AND DRY STATES, RESPECTIVELY, DURING THE FIVE MONTHS' PERIOD OF APRIL 29 TO SEPTEMBER 29, 1934¹

Month	Stills Seized	Daily Capacity Gallons	Average Daily Capacity Gallons	Mash Gallons Seized	Arrests
Apr. 29-May 26	1,192	186,449	156.4	965,227	1425
May 27-June 30	1,393	280,613	201.4	2,121,206	2385
July 1-July 28	1,061	151,815	143.1	1,774,493	1942
July 29-Aug. 25	1,266	216,708	171.2	1,425,921	2067
Aug. 25-Sept. 29	1,291	206,389	159.9	1,984,615	2515
	6,203	1,041,974	167.97	8,271,462	10,334
WET STATES—Population 89,438,606					
Apr. 29-May 26	564	101,853	180.6	588,988	815
May 27-June 30	558	180,929	324.2	1,545,351	1089
July 1-July 28	466	73,040	156.7	1,335,451	810
July 29-Aug. 25	390	62,700	160.8	898,717	867
Aug. 25-Sept. 29	525	101,974	194.2	1,384,384	1115
	2,503	520,496	207.94	5,752,891	4696
DRY STATES—Population 35,703,000					
Apr. 29-May 26	628	84,596	134.7	376,239	610
May 27-June 30	835	99,684	119.4	575,855	1296
July 1-July 28	595	78,775	132.4	439,042	1132
July 29-Aug. 25	876	154,008	175.8	527,204	1200
Aug. 25-Sept. 29	766	104,415	136.3	600,231	1400
	3700	521,478	140.9	2,518,571	5638

¹Compiled from the weekly press releases of the United States Alcohol Tax Unit.

TABLE V
SEIZURES OF ILLICIT STILLS BEFORE AND SINCE REPEAL¹

Stills Seized	Fiscal Year 1933	Five-month Period May-Sept., 1934
Wet States	8,722	2,503
Dry States ²	7,589	3,700
Total	16,311	6,203
Spirits Seized		
Wet States	1,195,922	248,993
Dry States	237,372	92,940
Total	1,433,294	341,933
Mash Seized		
Wet States	22,657,867	5,752,891
Dry States	4,877,502	2,518,571
Total	27,535,369	8,271,462
Arrests		
Wet States	50,170	4,696
Dry States	22,820	5,638
Total	72,990	10,334

¹Compiled from the aforementioned report of the United States Bureau of Industrial Alcohol 1933 and the weekly releases of the United States Alcohol Tax Unit.

²The following states were dry in the summer of 1934: Alabama, Arkansas, Florida, Georgia, Idaho, Kansas, Kentucky, Maine, Mississippi, Nebraska, North Carolina, North Dakota, Oklahoma, South Dakota, South Carolina, Texas, Utah, West Virginia, Wyoming. Since then the following states dropped out of the dry group: Florida, Idaho, Maine, Nebraska, South Dakota, and West Virginia. The number of dry states is now (November 1934) thirteen.

an estimate conform with those just presented. It may be safely assumed that the number of illicit stills in operation at any given moment in the country is at least equal the number seized in the course of a month (1,250), and that the average still has a life of only thirty days, and operates only twenty days out of the thirty. Upon that basis, the annual production of the stills will aggregate 48,000,000 gallons (daily capacity times number of operating days in a month and times the number of months, or $200,000 \times 20 \times 12 = 48,000,000$).

If we add to this figure two million gallons for smuggled liquor and deduct 10 per cent for seizures of liquor, breakage, and like things, we obtain the figure of 45,000,000 gallons as representing the total volume of bootleg liquor actually reaching the consumer in the course of a year. This is but 85 per cent of the estimated tax paid consumption of liquor amounting to 51,000,000 gallons a year. The losses to the federal treasury on that basis would aggregate \$90,000,000 and to the states and local government \$45,000,000, or a total loss to all public authorities of \$135,000,000 a year.

THE NATURE OF THE BOOTLEG OPERATIONS

It is obvious from the nature of the seizures and arrests made that the bulk of the illicit production of liquor is conducted by large scale organizations. Each successive function in the production and distribution of the illicit liquor, such as the supplying of molasses or other materials for distillation, the distillation itself, the distribution of alcohol in wholesale quantities, the operation of a cutting plant, and the retailing of the final product is usually carried on by a different group. Generally, the organization engaged in the distillation either operates simultaneously several

stills, or else has one or more extra stills ready to be put to work the moment the one operated at the time is seized, so that there should be no interruptions in the business. Most of the stills are moderate in size, for it is easier to evade detection by operating a medium-sized still than a large one, and the financial losses sustained in the case of a seizure of a smaller still are less serious. It may cost only \$10,000 to install a still with a capacity of 500 gallons a day, but it would cost from \$50,000 to \$100,000 to set up one having a capacity of four to five thousand gallons a day. The shift to smaller stills seems to be clearly in evidence at the present time.

The price of the alcohol produced illicitly generally fluctuates around \$2.00 a gallon in large lots and \$2.50 in small lots. The alcohol is generally of good quality.¹

The bootleg alcohol thus produced reaches the consumer in a great variety of ways. Some of it is used, in conjunction with tax paid spirits, by supposedly legitimate dealers or rectifiers, in the production of a supposedly legitimate whiskey or gin. The final product containing the non-tax paid or only partly tax paid liquor is placed on the market through licensed wholesalers, frequently former bootleggers. The liquor thus produced is sold to the retailers or restaurants at prices much below the ordinary ones. The retailer or restaurant owner purchasing such liquor generally knows that it cannot be alto-

¹Recently, however, according to a statement issued by the Alcohol Tax Unit, in December 1934, the quality of bootleg liquor has begun to deteriorate. Because of the closer watch established now by the government over the production and sale of molasses and the greater difficulty involved in procuring them, some bootleggers, according to that statement, have turned to denatured alcohol as a source of production of pure alcohol. The alcohol produced that way, however, necessarily contains harmful ingredients.

gether tax paid and legal at that price. The final consumer of the liquor is generally unaware of its illegitimate origin.

Some of the alcohol illicitly produced is used in the manufacture of counterfeited brands. There is hardly a brand of liquor on the market today that is not being counterfeited. The counterfeiters buy empty bottles, which originally contained genuine liquor, from dealers in empty bottles. They procure counterfeited labels, wrappers, corks and strip stamps from dealers specializing in the business of supplying complete outfits of these materials for almost any brand. A case of twenty-four empty pint bottles with a complete outfit of the requisite materials, short of the liquid itself, can be had on call in the underground market of New York City at a price of \$4.00 to \$4.50. The counterfeited bottles are sold to patrons of hotels, through bell boys, especially at night when liquor stores are closed and the patrons have no other way to procure liquor for a party. They are served also in speakeasies and like places. Licensed retailers seldom knowingly handle counterfeited brands.

A considerable amount of the illicitly produced alcohol goes into the production of cheap gin or straight whiskey sold to restaurants and bars of the lowest type—licensed ones as well as unlicensed ones—in tin cans or other containers, as frankly bootleg liquor. Liquor of this sort generally sells at \$2.50 to \$3.50 a gallon and is served at the counter from refilled bottles at ten or fifteen cents a drink. Finally, a substantial quantity of bootleg liquor is sold to the ordinary restaurants and bars, without pretension as to its real nature, for use in cocktails and other mixed drinks.

Perhaps the most conspicuous feature of the present day consumption of bootleg liquor, at least in wet states, is the

fact that it is now confined very largely to two types of consumers: (a) the indiscriminate and very heavy drinker who does not care whether the liquor is legitimate or not so long as it meets his immediate requirements and costs little, and (b) the consumer who does not know that he is being served bootleg stuff. There is a third class, (c) the consumer who demands liquor by the drink in states where the dispenser cannot buy legal liquor for such sale. The large number of consumers who drink moderately no longer use the services of private bootleggers who supplied them with fairly good liquor for years, but buy their liquor in the retail stores. The inquiry made in the course of this study among the consumers of this kind has definitely established this preference among them for the store.

This shift in purchasing has become especially pronounced since the appearance on the market of a number of new brands, especially of blended whiskey, of very acceptable quality and moderate price. The people who in the beginning were highly suspicious of the retail store have become less so today. As a result of this development the old time private bootlegger is disappearing rapidly at least in areas in which there are many retail stores.

THE REASONS FOR THE PERSISTENCE OF BOOTLEGGING

The reasons for the persistence of bootlegging are not difficult to find. They are (1) high taxes and the consequent high prices of liquor and opportunity for bootleggers to make large profits from their tax free products; (2) the still relatively poor quality of liquor offered by many legitimate producers, and the consequent continued low regard which the consumer has for a great part of the legitimate product and the opportunity for the bootlegger

to retain his hold on the consumer, since he can, under the circumstances, offer the consumer liquor of the same or even better quality at lower price; and finally (3) the fact that bootlegging has become so deep-rooted in American life as a result of almost twenty years of active operation that it does not lend itself to immediate uprooting. Thousands of persons have become so deeply involved in the bootlegging business financially and otherwise that it has become exceedingly difficult for them to leave it, even if they wished to do so.

It is stated by some that inefficient organization of the legitimate liquor industry is in part responsible for the high prices and poor quality of liquor. This situation is bound to improve. As time goes on, prices will probably come down and an adequate supply of better domestic whiskey—both blended and aged—will appear on the market. As to the persistence of bootlegging as an acquired habit and mode of earning a living, the elimination of the possibility of earning a profit will offer an effective cure.

THE NEED FOR A REDUCTION IN THE LIQUOR TAX

The present taxes of \$2.00 a gallon for the federal government and the \$1.00, which is the prevalent state levy, unquestionably handicap the legitimate dealer in his competition with the bootlegger. Together with the license fees imposed on retailers, wholesalers, and distillers, they constitute a total charge of \$10.50 on a case, \$3.50 on a gallon, and \$.88 on a quart of whiskey. This means a total tax charge on the cheap whiskey retailing at \$1.50 a quart of 60 per cent of the price, and on the more expensive domestic brands of 20 to 40 per cent. As shown by the writer in a previous study,² by avoiding all or most of these taxes and also certain other overhead expenses of legitimate dealers, such as advertising, bootleggers can make profits of \$10.00 a case on moderate priced whiskeys and yet undersell the legitimate dealer by \$5.00 or \$6.00 on a case.

²*Taxation of Liquor.* Citizens' Committee for Sane Liquor Laws. 485 Madison Avenue, New York City, 1934.

TABLE VI
COST STRUCTURE OF A CASE OF 12 FIFTHS OF STRAIGHT UNAGED WHISKEY,
94% PROOF RETAILING AT \$1.50 A FIFTH

I Distiller	
Cost of manufacturing (incl. liquor \$1.25, bottling and packing \$1.00, delivery 60 cents, overhead, 12½%, 40 cents)	\$3.25
Federal tax \$4.51 and strip stamps 12 cents	4.63
Total cost	7.88
Price obtained	9.10
Net profit	1.22
II Wholesaler	
Price paid to distiller	9.10
State excise	2.40
12 to 15% mark up (gross profit)	1.25
Price obtained	12.75
III Retailer	
Price paid to wholesaler	12.75
Mark up 35 to 40% in the case of cheap liquors; less in the case of dearer ones (gross profit)	5.25
Price obtained from consumer	18.00
IV Consumer	
Price paid at \$1.50 a fifth	18.00

SUMMARY COST STRUCTURE OF A BOTTLE (A FIFTH) OF THE FOREGOING WHISKEY

Cost of liquor	\$.10½
Bottling and packing and distiller's overhead	.11½
Delivery to wholesaler	.05
Profits of distiller	.10
Gross profits of wholesalers (including cost of license)	.10½
Gross profits of retailers (including cost of license)	.43½
Federal and state taxes	.59
	<hr/>
	\$1.50

The information in Table VI furnished by a reputable distiller shows the price structure of a cheap brand of whiskey under legitimate production. The whiskey in this case is unaged. A bootlegger sells whiskey of like quality, one to five gallon containers, at less than one-half of this price and makes a handsome profit.

It should be noted that these prices refer to a case of *fifths* and not quarts. If they were quarts, all figures would be one-fifth higher. The most effective and the quickest way of eliminating the bootlegger, undoubtedly, is to reduce materially the liquor tax. A reduction in the combined federal and state taxes from \$3.00 a gallon to \$2.00 would be sufficient to bring that result about. A reduction of this nature would by no means cause a corresponding loss of revenue to the federal treasury, since the lower rate would be collected on a much larger volume of reported tax paid liquor than is the present higher rate. The low rate would need to be maintained for only about two or three years—long enough to destroy the bootlegging industry. The rate could be increased gradually after that.

THE NEED FOR A REDUCTION IN THE CUSTOMS DUTIES ON LIQUOR

Simultaneously, with the reduction in internal taxes, a reduction in the customs duties should be made. The present duty of \$5.00 a gallon, together with the federal excise of \$2.00 and the state excise of \$1.00, raises the costs of imported liquor to a prohibitive figure of \$4.00 to \$5.00 a fifth and bars substantial importations, for only the well-to-do can afford to pay such high prices, and their consumption is not large enough to justify large importations. It is significant that the collections of revenue from importations of liquor have proven even more disappointing than any of the other classes of revenue from alcoholic beverages. In accordance

with the official estimates submitted to it, Congress expected the \$5.00 duty to produce a revenue of \$100,000,000 a year on 20,000,000 gallons of expected annual importations. Instead, the duty will produce only \$30,000,000 on importations aggregating only 6,000,000 gallons. (See Tables I and VII.)

Such high taxes encourage smuggling. The saving in taxes through smuggling amounts to \$21.00 to \$26.00 on a case costing only \$9.50. This large margin of saving not only covers the costs of illicit operations but furnishes the smuggler a handsome reward for his efforts.

The duty should be reduced for the next two or three years to \$2.50 a gallon. The effect of such a reduction would be to increase materially the importations and to reduce smuggling. The loss in revenue to the treasury from such a reduction in the rates would probably be very small or even none, since the volume of legitimate importations would increase materially under the lower rates. The increased importations would have the further beneficial effect of forcing the prices on domestic liquor down and thus further assisting the government in the suppression of bootlegging. Inasmuch as the importations would still be subject to the same internal duty of \$2.00 a gallon, the domestic product would still have a substantial advantage in costs over the foreign goods under the lower duty.³

THE NEED FOR COORDINATION OF FEDERAL AND STATE LIQUOR TAXES

As shown in Table IX, the states obtain from taxes, license fees, and other impositions on alcoholic beverages and trade a total annual revenue of approximately \$106,000,000. Of this

³Certain members of the committee feel that there should be no additional levy, thus leaving the differential between domestic and foreign liquor at fifty cents a gallon.

sum, \$25,000,000 may be ascribed to liquor taxes levied on a gallon basis and \$16,000,000 to state liquor store profits in states having a liquor monopoly. The license fees and beer taxes have produced each between thirty and thirty-three million dollars. The gallonage taxes and monopoly profits average about \$.90 a gallon.

The experience of the states with the collection of gallonage taxes clearly shows that the collection of them by a state is cumbersome, expensive, and not altogether effective. The tax is collected from wholesalers, either by means of revenue stamps or through a system of declaration and self-assessment by the wholesaler. Under the first method the

TABLE VII
IMPORTS OF WINES AND LIQUORS IN 1934 (IN GALLONS)¹

Month	Brandy	Gin	Rum	Whiskey	Cordials and Others	Sparkling Wines	Still Wines
January	112,371	46,383		1,285,076	115,924	137,116	656,015
February	179,714	33,339		1,359,290	166,335	153,555	751,092
March	56,191	12,889		478,454	90,257	37,444	380,088
April	33,830	8,736		283,181	64,085	21,777	242,571
May	32,507	14,126	26,804	266,911	33,258	20,726	289,075
June	36,146	11,997	30,989	303,584	35,490	23,768	266,317
July	20,157	11,223	23,156	266,194	23,002	13,596	140,794
August	23,127	9,013	21,234	321,057	14,303	12,065	125,893
September	41,454	9,562	38,663	446,345	24,166	17,504	179,431
	535,497	157,268	140,846	5,010,092	566,820	437,551	3,031,276

¹Compiled from monthly press releases of the United States Bureau of Customs

TABLE VIII
FEDERAL REVENUES COLLECTED FROM ALCOHOLIC BEVERAGES
FROM JANUARY 1 TO SEPTEMBER 30, 1934¹
I. Internal Revenues

	Excise Tax	Rectifiers Tax	Wines, Cordials & Grape Brandy for Fortification of Wines	Special Taxes on Distillers, etc.	Floor Tax on Spirits, Wines, etc.
January	\$9,651,305	\$1,005,154	\$415,553	\$ 769,213	
February	7,708,355	597,768	399,774	194,457	\$3,964,753
March	8,742,611	615,707	358,393	154,590	642,695
April	6,843,650	502,662	313,873	103,927	310,353
May	7,278,324	391,946	345,320	72,167	181,535
June	7,118,336	287,550	329,339	1,203,220	200,703
July	7,416,476	416,575	238,604	2,504,782	155,749
August	8,914,094	459,658	306,398	1,056,814	2,557,164
September	11,608,865	473,151	579,191	236,093	158,214
	75,282,016	4,750,171	3,286,415	6,295,263	8,171,166

I. Internal Revenues (continued)

	Tax on Beer	Special Taxes on Dealers, Brewers, etc.	Bottle Containers and Case Stamps	Internal Taxes on Imported Spirits	Internal Taxes on Imported Wines and Cordials	Total
January	\$10,226,511	\$65,008				\$22,132,744
February	9,316,458	50,712	\$807,093			23,039,370
March	13,175,305	55,613	563,563	\$4,012,447		28,320,924
April	14,366,364	60,601	363,940	855,738		23,721,108
May	19,860,164	52,397	252,570	764,084		29,198,507
June	22,871,590	867,137	275,720	787,411		33,941,006
July	25,316,019	1,771,974	242,389	727,563	33,449	38,823,580
August	23,301,971	799,345	330,118	754,108	86,710	38,566,380
September	17,209,043	190,619	490,410	1,065,768	(—13,746)	31,997,608
	155,643,425	3,913,406	3,325,803	8,967,119	106,413	269,741,227

II. Customs Duties

Month	Distilled Liquor	Still Wines	Sparkling Wines	Total
January	\$3,071,268	\$604,265	\$304,662	\$3,980,195
February	2,887,952	552,698	274,098	3,714,748
March	3,154,272	475,067	224,659	3,853,998
April	1,930,187	303,209	130,662	2,364,058
May	1,886,225	390,107	127,934	2,404,266
June	2,039,023	332,420	140,434	2,511,877
July	1,688,529	175,382	79,506	1,943,417
August	1,919,037	157,103	71,616	2,147,756
September	2,703,353	223,569	102,619	3,029,541
October	3,513,560	268,838	180,204	3,962,602
	24,793,406	3,482,658	1,636,394	29,912,456

¹Compiled from monthly press releases of the United States Bureau of Internal Revenues.

REVENUE COLLECTIONS BY STATES FROM TAXES ON ALCOHOLIC BEVERAGES AND LICENSE FEES, 1934^a

State	Liquor and Wine	Licenses, 1934	Beer	Taxes for part of year 1934 Liquor and Wine	Beer	Net Profit of State Stores for part of year 1934	Estimated Total for One Year
Arizona		101,250		(8) 341,900 ^a			500,000
California		2,001,500		(8) 845,097			3,300,000
Colorado		95,138		(9) 472,301	(9) 70,152		800,000
Connecticut		350,000		(6) 650,000			1,800,000
*Delaware	(1) 41,250		57,400	64,300	48,551	Unavailable	250,000
Illinois		1,376,184		(7) 1,591,246	(7) 1,587,721		6,700,000
Indiana	59,275		1,345,161	(8) 295,160	(8) 838,037		3,100,000
*Iowa	40,694 ^b		76,781		(8) 591,469	Unavailable	1,300,000
Kentucky	387,089		220,000 ^c	(5½) 937,964	(11) 526,951		3,300,000
Louisiana	17,362		20,375	(1) 141,540	(5) 394,644		2,700,000
Maryland		Unavailable		(5) 494,000	Unavailable		1,200,000
Massachusetts		717,304		(10½) 2,089,965			3,000,000
*Michigan			426,412 ^d		(9½) 2,861,243 ^d	(9½) 1,674,503.87	6,300,000
Minnesota	93,310		30,082	(7½) 517,170	(7½) 1,205,995		2,900,000
Missouri	391,028		49,587	(7½) 626,713	(7½) 201,026		1,600,000
*Montana			263,200		(9) 160,059	324,194.90 ^e	1,000,000
Nevada	Unavailable			Unavailable	Unavailable		Unavailable
*New Hampshire			130,115		(8) 104,016	Unavailable	500,000

TABLE IX (Continued)

States	Liquor and Wine	Licenses, 1934	Beer	Taxes for part of year 1934 Liquor and Wine	Beer	Net Profit of State Stores for part of year 1934	Estimated Total for One Year
New Jersey	519,326			(8) 2,852,022			4,500,000
New Mexico	Unavailable ^a			(2) 72,804			Unavailable
New York	8,400,000	6,600,000		(9) 4,414,879	(9) 4,464,451		27,000,000
*Ohio	2,165,605	12,284		(4) 1,890,476	(8) 1,754,449	(12) 600,000	10,000,000
*Oregon		110,002 ^c		166,612 ^c	(12) (est.) 350,000		700,000
*Pennsylvania	(9) 3,064,695 ^c			(9) 2,225,204 ^b	(9) 4,000,000	(8) (est.) 4,000,000	15,000,000
Rhode Island	(2½) 14,690			131,898	(2½) 191,851		1,900,000
*Vermont	Unavailable			Unavailable	Unavailable		Unavailable
*Virginia	(8) 83,965 ¹	(8) 35,119 ¹			(5) 442,974	(12) 1,750,000	3,000,000
*Washington		(6) 221,131			(6) 526,719	(12) (est.) 1,500,000	2,500,000
Wisconsin	(7) 99,320 ¹	Unavailable		(7½) 1,022,178	(5) 1,187,122		4,250,000
							106,200,000

¹Prepared from information supplied by the tax collecting agencies and legislative reference librarians of the various states; and by Mr. Laszlo-Ecker of the Federal Employment Relief Administration who prepared a similar estimate in June 1934. The figures include only revenues collected by state agencies. The amounts collected locally from license fees are not included, since the information on them is unavailable. The numerals in front of the figures designate the number of months covered by the collections. The * in front of the names of states indicate the state has a liquor monopoly. This table does not cover the six states which became wet in the fall of 1934 (see footnote 2 to Table V).

^a498,900 liquor, wine and beer excise, revenue for 8 months; \$243,000 revenue from luxury tax on liquor, wine, and beer for little less than a year.

^bFigure \$40,694 represents \$3,745 collected from doctors and druggists for special permits, and \$36,949 from permits to individuals allowing purchase of State stores.

^cBeer licenses renewable as of July 1. This amount includes license from 9/26/33 to 6/30/34 and 6/30/34 to 6/30/35.

^dTwo license periods: \$412,457—12/15/33 to 6/30/34; and \$13,955—7/1/34 to 9/30/34.

^eIncludes alcohol tax.

^fIndicates light wines and beers.

^gDoes not include license fees for the retail sale of beer which are locally collected.

^hPrincipally floor tax of \$2.00 on liquors.

ⁱDoes not include retail liquor license fees which are collected locally.

wholesaler purchases revenue stamps from the state and furnishes them to the retailer, who in turn affixes them to the bottles the moment he opens the case. In addition he is generally required to submit a periodic report on his total sales.

Under this plan the state receives its money before the sale is consummated by the wholesaler. The wholesaler is required to submit to the collecting agency periodically a report accounting for his purchases of revenue stamps and his disposition of them. Under the second method the wholesaler submits a monthly report to the state, showing the aggregate of his sales during the past month, together with a check covering the tax due on them. Under this plan the state receives the money only some time after the sale. There is a certain amount of delinquency requiring a constant follow up; and there are also losses, since some of the wholesalers move away or disappear without completing their payments. Under either plan of collection the collecting agency must do considerable checking and cross checking of reports, both in the office and in the field, and maintain a substantial staff of investigators and auditors for this work.

Legal limitations on the powers of the states to tax articles in interstate commerce cause great difficulties in the way of an effective collection of gallonage taxes on a state basis. Since the goods shipped to another state are not liable to a tax in the state from which they are exported, evasion of the tax is possible through false claims by wholesaler of exportations made by them to other states. It is necessary, therefore, for state collectors to require of wholesalers reports giving full details of all their shipments to other states, with the quantity of the shipment, name of the addressee, and other like information and containing proofs

of the shipments in the form of invoices and like documents. Exemptions from the tax are granted only upon the submission of such proofs. Reports of this nature must be checked. Unless the collecting agencies of the other states are willing to coöperate, it becomes impossible to verify the correctness of the claims. Each state must also guard against the sale of liquor imported from another state without the payment of the tax. Since it is very difficult to check on importations by retailers, many states prohibit importations otherwise than through a wholesaler licensed in the state. Hence, even though the liquor is purchased from a wholesaler originally, if that wholesaler is located in another state, one more wholesaler, licensed in the state of importation, must handle the liquor before the retailer can have it. Manifestly, the second wholesaler must be compensated for his services. The result is an unnecessary pyramiding of costs. It becomes necessary for the collecting agencies of the states continually to exchange information as to shipments allegedly made to other states. If the agencies of some states do not coöperate fully, the states that do cannot effectively collect their taxes. Thus, the whole system of collection of gallonage taxes by state jurisdictions is full of complications and red tape resulting in tremendous waste.

The greater part of present day expense and effort could be saved if the states were to agree to have the federal government collect the gallonage taxes for them. The tax in this case could be collected at the source from the distiller. It would be collected before the liquor is released, and the expense of collection would be very small. It would make no difference in this instance whether a case of liquor was shipped by a wholesaler from one state into another, since the tax would be paid long

before. Tax evasion would be reduced to a minimum and delinquencies would be non-existent. With the same rates, the states would obtain more revenue.

The revenues could be apportioned among the states either in proportion to the population contained in their wet areas, or else, in proportion to the volume of sales of liquor in each state. It should not be difficult to ascertain what the proportion is.

The federal government could levy a total tax of \$2.00 a gallon, retain \$1.25 and distribute the \$.75 part of the proceeds among the states. The loss of revenue to the states under the lower rate (\$.75 instead of \$1.00) would be negligible or even non-existent. For the reduction in the collections per gallon would be compensated by the increase in the number of gallons on which the taxes would be collected. This would be a direct outcome of (1) a shift in consumption from bootleg to legitimate liquor as a result of the reduction in the combined federal and state taxes, and of the subsequent drop in prices of liquor, and (2) of the improvement in collections under the system of centralized collection at the source. But under any plan of rates the collection of the liquor taxes should be centralized.

THE REVENUES FROM STATE LIQUOR STORES

It is yet too early to pronounce any judgment on the relative merits of state stores and private stores as agents of distribution of liquor, and incidentally, as producers of revenue for the state.⁴ The state stores have been in operation only a few months and the statistics of

their revenues, expenditures, and net profits are very incomplete. It seems, however, as if their net revenues would probably amount to about \$1.00 per gallon of liquor sold, notwithstanding the fact that with the exception of imported goods they are selling liquor at prices 10 to 20 per cent below those prevalent in states with private stores. (See Table X.)⁵

One of the most important reasons why the state stores are able to sell liquor at such low prices is their low overhead which, in turn, is due to the concentration of the business in comparatively few stores. As shown in Table XI, in the eight states having a state monopoly, there is one store for every 20,900 inhabitants; in the states dependent on private stores for their distribution there is one store for every 2,260 inhabitants.

TAX ON BEER NOT EXCESSIVE

Let us turn now to the consideration of taxes imposed on beer. These taxes, comprised of a federal tax of \$5.00 a barrel and generally, a state tax of \$1.00 a barrel, are not excessive. They represent a tax charge of only 1½c on a ten-cent glass of beer, which is the glass most commonly sold, and of 1c on the more exceptional five-cent glass of beer (as shown in Table XII below). This charge does not materially increase the price of beer to the consumer, nor does it seriously interfere with the ability of the brewer or bar owner to earn a reasonable profit on his investments and efforts. Neither is it

⁴The states having a liquor monopoly in October 1934 were as follows: Delaware, Iowa, Michigan, Montana, New Hampshire, Ohio, Oregon, Pennsylvania, Vermont, Virginia, and Washington. In November 1934 one more state—Maine—adopted the monopoly system. Thus there were twelve monopoly states in November 1934.

⁵The expensive imported liquors are generally sold in state stores at higher prices than in private stores (see Table X). This is due to the fact that it is difficult to dispose of the expensive goods. Competition among private stores has brought down the price on these liquors to a point where the retailer makes but a very small profit, and in some cases almost none, on the sale of the imported goods. For example, a bottle of Martel's retailing at \$3.89 costs the retailer \$3.50.

large enough to induce any extensive bootlegging in beer. A careful check-up shows, as already stated, that there is very little bootlegging of beer under the present rate of the tax. The total consumption of beer may be disappointing to the government from a fiscal point of view. However, its consumption could not be materially increased (even

if it were desirable to do so) by a reduction in the tax. The rates of the tax seem to be sound.

READJUSTMENTS NEEDED IN
LICENSE FEES

The license fees charged in most states to manufacturers and wholesalers are not excessive. The provision in the

TABLE X
COMPARATIVE PRICES OF LIQUOR IN STATES WITH PRIVATE STORES AND STATES
WITH LIQUOR MONOPOLIES, SEPTEMBER-OCTOBER, 1934¹
Prices Per Bottle

Brand of liquor and size of bottle	In New York State (N. Y. City)		In Monopoly States		Montana	Washington
	Private Stores	Pennsylvania	Virginia	Iowa		
Sweepstakes, 1/5	\$1.29	\$1.00	\$1.10		\$1.20	\$.95
Frontier, pt.	.95		.65			
Crab Orchard, pt.	.89-.99 ^a	1.15	.95	\$1.15	1.00	.85
Mayflower, pt.	1.20	1.15			1.15	
Rewco, pt.	1.25	1.15	.95	1.20		.85
Seagram's 5 Crown, pt.	1.42		1.15	1.35	1.40	
DeWar White Label, 1/5	3.89	3.75	4.20		4.35	3.45 ^b
Martel, 3 Star, 1/5	3.89	4.50	4.70	4.50	5.00	4.25
Fleischman's Gin, 1/5	1.55	1.25	1.25	1.45	1.35	1.05

¹Figures obtained from lists of posted prices of state liquor stores and from private retailers.
^aThis is a cut rate price. It is exceptionally low due to the fact that Crab Orchard is used generally in New York City stores as a leader intended to attract customers. It is only a few cents above the wholesaler's price.
^bThis whiskey is imported in barrels and is bottled by the monopoly itself.

TABLE XI
NUMBER OF PACKAGE RETAIL STORES IN STATES WITH PRIVATE STORES AND THOSE
WITH STATE STORES, RESPECTIVELY, IN 1934¹

States with Private Stores	Population	Number of Package Stores	States with State Stores	Population	Number of Stores
California	6,062,000	7,096	Iowa ²	2,482,000	52
Colorado	1,052,000	205	Michigan ²	5,043,000	100
Indiana	3,291,000	900	Montana	537,000	92
Kentucky	1,900,000	781	New Hampshire	469,000	10
Louisiana	2,153,000	2,400	Ohio ²	6,798,000	121
Massachusetts	4,313,000	1,450	Oregon	983,000	22
Missouri	3,668,000	1,294	Pennsylvania	9,989,000	269
New York	12,965,000	1,621	Virginia	2,441,000	65
	35,404,000	15,747		28,742,000	1,431

¹Compiled from returns to a questionnaire.
²Not including "agencies."

TABLE XII
THE COST STRUCTURE OF A BARREL OF BEER (31 GALLONS)

I. Brewer		
Material cost	\$2.00	
Cost of manufacturing	1.90	
Administrative cost	.85	
Delivery	.65	
Selling cost	.75	
Total production cost	\$6.15	
Federal tax	5.00	
State tax (average)	1.00	
Total cost	12.15	
Price obtained	15.00	
Net Profit	2.85	
II. Bar		
Price paid	15.00	
Price obtained (396 10 oz. glasses @ 10 cents or 660 6 oz. glasses @ 5 cents)	33.00 to 39.60	
Gross profit	\$18.00 to \$24.60	

laws of many states, however, prohibiting wholesalers located in other states from selling liquor to retailers if they have no license in that state is unreasonable. It increases unnecessarily the costs of liquor. In most states, too, license fees for the privilege of selling liquor on the premises are fixed at a uniform rate, without regard to the size of the dispensing establishment and the volume of its business. A large hotel will pay the same fee as a small restaurant. This is obviously unfair. Similarly, the license fees charged to the package retail stores are generally fixed without regard to the size of the store. A large department store selling a huge quantity of liquor will pay the same license fee as a small establishment. Inequalities of this nature should be corrected in future legislation.⁶

About one-half of the revenue collected by the states from the taxation of the alcoholic beverages and of the trade conducted therein should be either apportioned among the local governments or used to provide a state subsidy to them for a support of certain services.

⁶For more detailed information on the rates of the license fees in various states and a more elaborate critique of them see the writer's report on *Taxation of Liquor* mentioned in footnote 2.

NOTE—Appreciation is due to the various federal and state officials, persons connected with the liquor trade, and other individuals who supplied information for this study, particularly Commissioner Joseph H. Choate, Federal Alcohol Control Administrator, Mr. L. L. Ecker-R of the Federal Emergency Relief Administration, Mr. Henry I. Peffer of the Seagram Distilling Company, and finally to the several investigators on the FERA rolls who assisted in this work.

TABLE XIII							
PRODUCTION AND CONSUMPTION OF DOMESTIC ALCOHOLIC BEVERAGES IN THE UNITED STATES FROM DEC. 1, 1933 TO JULY 31, 1934 ¹							
Production of Distilled Spirits (in thousands of gallons)							
Month	Whiskey	Rum	Gin	Brandy	High Wines	Alcohol	
December 1933	4,794	125	553	297	—	15,396	
January 1934	6,567	77	319	357	24	13,756	
February	7,211	38	286	423	13	13,810	
March	9,009	141	455	649	27	12,313	
April	8,828	72	134	532	70	12,731	
May	8,695	51	122	430	35	13,478	
June	7,284	39	222	297	—	12,998	
July	8,182	12	518	99	3	14,202	
Withdrawals of Distilled Spirits for Consumption (in thousands of gallons)							
Month	Whiskey	Rum	Gin	Brandy	High Wines	Tax paid Alcohol	Total
December 1933	3,753	48	334	224	—	3,748	8,107
January 1934	2,828	33	336	223	24	2,956	6,400
February	1,893	12	285	110	—	1,522	3,822
March	2,376	21	254	139	12	1,558	4,360
April	2,124	7	160	115	5	1,025	3,436
May	2,097	12	185	83	6	1,173	3,556
June	1,974	5	304	70	13	1,176	3,542
July	2,209	16	441	56	25	1,052	3,799
							37,022
Wine and Beer							
Sparkling Wine							
Month	Still Wine Production	(thous. gal.) Withdrawal	Wine Production	(thous. gal.) Withdrawal	Beer Production	(thous. gal.) Withdrawal	
December 1933	10,456	3,215	—	99	2,119	2,165	
January 1934	3,434	1,705	—	27	2,494	2,008	
February	1,309	1,235	—	19	2,422	1,865	
March	1,572	1,658	—	16	3,263	2,625	
April	1,473	1,371	—	12	3,703	2,855	
May	974	1,116	—	14	4,455	3,796	
June	848	1,498	—	15	4,826	4,550	
July					5,075	4,939	

¹Compiled from figures furnished by the Alcohol Tax Unit, United States Treasury.

ALCOHOL MEN DRIVE
WISCONSIN DRIVE
ON 'BOOTLEGGING'
NETS 147

THINKS USING
MOONSHINE
LIQUOR WORTH
SIX MILLIONS
SEIZED HERE

Police and Federals
Combine to Battle
Bootleg Rum Flood

South Dakota Sheriff and Deputy
Among 7 Seized in Raid

Bootlegging Has Spurt
Princes of Canada
Still da

LIQUOR MEN PLEAD
FOR FINGERPRINTING

ing 1,000 Ga The Sinister Increasing
s, Some Fron In Drunken Driving
County Arr tests of drunken drivers since raised

HUM SEIZURES
PASS 6 MILLION

Bootleg Ring
U. S. of Millions

Half Our Liquor
Still Bootleg

to Tax-Dodging Producers of Illegal
Liquor Are Flooding
the Market With

More than \$5,000,000 worth of
liquor has been seized since the
first of the year in the metropol-
itan area in a drive by the Depart-
ment of Agriculture against boot-
leg and sub-standard liquor.
This was disclosed by w

WISCONSIN WINNING
WAR ON BOOTLEGGERS
CONVENTION IS TOLD

Half Liquor
Sold in U. S.
Is Bootleg

Bootlegging Increases
Across Canadian B

U. S. SEEKS AID
ON RUM RUNNING

Director Palmer of State's
Tax Division Says Revenues
Have Increased Recently

Alcoholic Code Authority
High Taxes Aiding
LIQUOR BOOTLEGGERS
PRACTICE NEW RACKET

LIQUOR VIOLATIONS
IN CHELSEA SCORED

Wisconsin is winning its war on boot-
legging members of the Nation-
al Liquor Dealers' Association were
at the convention. Director Palmer
Share with a Cargo of Contraband Liquor for American Consumption

A new racket in the wine and liquor business—al-
ready suffering from bootleg products, counterfeit bottles,
labels and stamps, the bottle "refiller" and the illegal
"certifier"—was called to the attention of the delegates
at the National Wholesale Liquor Dealers' convention, by D.
Astoria Commissioner

Retail Group Claims Police
Wink at Illegal Resorts

The Biggest Bootleg
Tide We Ever Had—
RIGHT NOW

LIQUOR SEIZURES
NET 100,000 CASES

Rum Row Returns
With New Problem
In Repeal W

Dry Texas Drips Liquor
And Doesn't Even Blush

Federal Agents Here Have
Confiscated Much Whisky
Since First of Year

Taxes Sug-
Unit Seizures Rising;
ations Vary in States

BEER SOLD OUT
OF JAIL CELL

Shake-Down
Racket Resumed;
ops Declare War

RAIDERS SMASH
BOOTLEG DEALS
ON VAST

WASHINGTON, Ga., Oct. 19—
(U.S.S.)—Sara Handsplaker know-
ing the rum runners business opportunity when
she saw it, and bars on the county
last week.

by the return to Brooklyn of the old Prohi-
tion and beer sales racket, detectives under
John J. Ryan yesterday started an
operation in the borough under-

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**A Model Real Property
Tax Collection Law**

Report of the Committee on a
Model Tax Collection Law
of the National Municipal League
Arnold Frye, Chairman

Published by the

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NATIONAL MUNICIPAL LEAGUE

Foreword

IN most local governments throughout the United States delinquent taxes have been a barometer of the depression. When the income of individuals dropped or disappeared entirely while governmental costs continued on, the change in financial status of the individual was reflected on governmental balance sheets in delinquent taxes. This started the long trail of local governmental trouble marked by defaults on bonds, unpaid teachers and other public officials, issuance of scrip, and curtailment of essential services.

During the first part of this period there was much shrugging of shoulders and acceptance of the "inevitable". It soon developed, however, that there was a wide variation in the percentage of uncollectable taxes in similar communities. Many taxpayers, able to pay their taxes, were not doing so, it appeared, but were putting other expenditures ahead of their tax bills. With some cities collecting nearly 100 per cent of their taxes and others struggling along with less than 50 per cent, it was obvious that the depression was not the only factor in the situation. Among the important factors, it became more and more apparent, was the kind of tax collection laws on the statute books and the good or bad administration which accompanied them.

With thousands of different laws and practices prevailing in various sections of the United States, the National Municipal League felt it could make a constructive contribution by developing a suggested model tax collection law representing the sum total of the best thought on the subject. For this purpose a committee with a distinguished membership, representing authorities on various phases of public finance, was formed, under the chairmanship of Arnold Frye, prominent municipal attorney.

In presenting the accompanying report of the committee, the National Municipal League wishes to express its appreciation for the splendid contribution in time and effort made by all the members of the committee and especially the chairman in drafting this carefully worked out report, as well as its hope and expectation that the service rendered will be more than justified by the resulting improvement in this most important branch of public administration.

Howard P. Jones, *Secretary*
NATIONAL MUNICIPAL LEAGUE

Introduction

FROM approximately 1923 onward, collection of local real property taxes, in terms of the percentage of the tax levy, began dropping, and from 1930 to 1933 dropped precipitately in many of our states. While there was a noticeable improvement in 1934, particularly in the collection of delinquent taxes, the situation gives cause for much concern. As a matter of fact, in many plans, the percentage of collections in the year of levy has been low for a long period of time. Numerous recent analyses indicate that commercial property and vacant lots account for a far larger percentage of delinquent taxes than small homes. For example, in a large county near New York City, while the vacant lots comprise only one-eighth of the assessed valuation, they are responsible for one-half of the entire accumulation of delinquent taxes. In the same county, of 60,000 properties in arrears, 48,000 are vacant lots. Forty-seven hundred of these lots are assessed at \$20 or less per lot, and have been in arrears since 1895. Under the existing law the cost of an action to foreclose the tax lien is about \$290, a fact which explains why municipalities in that county have not found it practical to avail themselves of the only legal remedy open to them.

These analyses indicate that it is not the small home owner who withholds payment of his contribution to the support of government. They also indicate that a large share of the blame for ineffective tax collections should be placed on defective tax collection laws. Their inadequacies were obvious enough in normal times, but it has taken economic adversity to reveal the full force of their cumulative effect. The need for overhauling our collection machinery is, therefore, the *raison d'être* of the report to which these paragraphs are an introduction. The committee has felt that it was not

part of its task or within its power to consider the phases of our economic or social structure which tend to produce tax delinquency. It has, moreover, been compelled to assume that such problems as the equitable distribution of the tax burden have been solved. It has proceeded on the theory that, once a levy has been made in compliance with the provisions of law, and the period for appeal from the levy through administrative or judicial channels has passed, the tax becomes a compulsory contribution for the support of government, and leniency thereafter undermines the stability of government itself.

The committee feels that a fair but inexorable procedure for the collection of taxes will have the effect over a period of time of causing the community to view the payment of taxes as a normal civic duty. It realizes also that there is no magic by which an annual levy can be transmuted into cash and that, in addition to adequate machinery for the collection of taxes, competent officials are necessary for the prosaic business of applying it. It has, therefore, included a section in the model law providing for the appointment of the collector rather than his election. Furthermore, the committee has felt justified in drafting a provision applicable to property subject to taxation by several taxing districts whereby duplicate assessments will be avoided in the interests of uniformity and economy of effort.

Despite its failure to include it as part of its collection law, the committee invites serious consideration of the proposal that the entire tax function be taken over by counties. This proposal has received its latest statement at the hands of Governor Hoffman of New Jersey as follows:

In this movement toward the placing of our local government on

a sound administrative basis, there must be a more effective system for the assessment of property and the collection of taxes. Unless there is fair and uniform assessment, there can be no equalization of the tax burden, and debt limit based on assessed values will have no real meaning. Property assessment is an important and exacting task. It is not a job for amateurs. It should be handled by intelligent and qualified people, free from political or other influences, and in accordance with established standards applied to the whole state. I propose that the county be made the unit of assessment, with general supervisory powers vested in the state tax department. I propose a county assessor in each county, thoroughly qualified by training and experience, with a permanent force of deputies and assistants selected under the provisions of the civil service laws. I propose a similar plan for the collection of taxes with a county tax collector selected on the basis of experience and fitness, whose necessary staff of deputies and assistants shall be selected through civil service methods. In some of the larger municipalities it may be found advisable to provide for local assessing and collecting authorities functioning as deputies under the county officers. These administrative details and procedures can readily be worked out, and under such a plan we can be assured of more equitable assessments and more effective collection procedure in the small cities, townships, boroughs, and villages, as well as in the larger communities. Arrangements can well be made with banks throughout each county to serve as collecting agencies for the convenience of taxpayers. Adequate records can be maintained and the moneys collected for each local unit of government can be paid to the proper local officials as rapidly as collections are made.

In some states, unfortunately, such a scheme raises constitutional difficulties because of the peculiar form of some home rule provisions. In New York this is the case. *People ex rel. Town of Pelham v. Village of Pelham*, 215 N. Y. 374 (1915). But the committee has not undertaken to conform the provisions of the model act to the variations from state to state of constitutional law.

The belief of the committee in the importance of a uniform and planned tax calendar is reflected in Article II, which in a strict sense has no place in a tax collection law. It supposes a fiscal year of July first to June thirtieth, but, since the only significance of the dates in the suggested calendar is their relationship to each other, the entire scheme can be adapted to any other fiscal year by the simple expedient of adjusting all dates to fit the new pattern. Or the practical problem of adjusting an existing tax procedure which does not stand in the same chronological relationship to the fiscal year as that suggested in the model law may be solved by changing the fiscal year. The intervening period may be covered by the adoption of a single budget for the interregnum and the new fiscal year or a separate budget for each. This is a matter preeminently for the individual states, however, and the committee limits itself to indicating the possibilities.

The model law attempts to profit from the experience of the depression years. It is not, however, an experiment. The committee has preferred to trust to machinery which has been tried by experience. Every provision has behind it a record of successful application in some State.

A study of the tax laws of those States where collections have been conspicuously good has led the Committee to the following conclusions as to what a model law should contain:

1. It should provide for the payment of taxes in semiannual, at least, and

preferably in quarterly, instalments of which the first should be due as nearly as possible at the beginning of the fiscal year, in order to reduce the expense of borrowing in anticipation of taxes. Each instalment should be separately treated with respect to liens and penalties.

2. No discount for prepayment of taxes should be allowed, because instalment payments make this expense unnecessary.

3. Penalties for non-payment of taxes should be sufficient to make it unprofitable to withhold payment.

4. Tax liens should be sold at a general sale soon after the date of delinquency of the last instalment. The law should make it mandatory that sales be held annually at an invariable date. Sales once begun should be continued from day to day without adjournment. Experience has shown that otherwise, favoritism may creep in and taxpayers will come to the conclusion that taxes need not be paid. The method of bidding should be on the interest rate which the purchaser will accept, thus keeping down the cost, but with a statutory maximum rate high enough to attract purchasers. The exact rate will depend on prevailing money rates but experience indicates 12 per cent per annum as a reasonable maximum. It has also been found that purchasers cannot be obtained if foreclosure is delayed and is expensive because such lien certificates are not desirable bank collateral. For this reason, the law may provide that interest be payable semiannually and the period of redemption be shortened if interest and current taxes and assessments be not paid.

5. As to legal procedure for foreclosure of the equity of redemption, it

should be as simple, expeditious, and inexpensive as possible, consistent with good land titles. The procedure in the land courts, such as exist in some of the New England states, is effective. In other states, a proceeding in equity as for foreclosure on a mortgage gives a satisfactory title, but the statute should not make it necessary to have a separate proceeding for each parcel. In order to reduce the expense in the case of property of small value, such as vacant lots in outlying sections of a city, the statute should provide an alternate proceeding *in rem*.

6. There should be personal liability for taxes so far as constitutionally possible.

7. Some elasticity should be given to enforcement machinery by the addition of such special remedies as the collection of the rents and income of delinquent real estate through statutory receiverships of income-producing property, such as have been provided by law in several states.

8. The collector should hold an appointive rather than an elective office and he should be required to give a surety bond conditioned upon the faithful performance of his duties, including the observance of all controlling provisions of law.

COMMITTEE ON A MODEL TAX COLLECTION LAW

ARNOLD FRYE, *Chairman*

Note.—Since the correction of the final proof it has been suggested by a member of the Committee that some method be devised whereby in case bankruptcy occurs that part of the bankrupt's real estate upon which there is a municipal lien be viewed as the property of the municipality and not in the custody of the law, or at least that the lien be made indestructible, so as to permit enforcement after the conclusion of the bankruptcy proceedings. Lack of time prevents anything but a statement of the problem.

A Model Real Property Tax Collection Law

Report of the Com-
mittee on a Model
Tax Collection Law
of the National
Municipal League

AN ACT Relating to the Levy and
Collection of Taxes on Real
Property.

Be it enacted

- Article I. Short Title
II. Levy and Assessment
III. Collectors
IV. Collection of Taxes
V. Collection of Delin-
quent Taxes by Ap-
pointment of Receiver
of Rents and Income
VI. Personal Liability for
Taxes
VII. Collection of Delinquent
Taxes by Sale of Real
Property
VIII. Redemption
IX. Foreclosure by Proceed-
ings *in Personam*
X. Foreclosure by Pro-
ceedings *in Rem*
XI. Severability of Provi-
sions

ARTICLE I

SHORT TITLE

Section 1. Short Title

Section 1. Short Title. This act may
be cited as the "Real Property Tax Col-
lection Law."

ARTICLE II

LEVY AND ASSESSMENT¹

Section 2. Property subject to tax;

method of assessment

3. Period and method of as-
sessing
4. Changes entered; amount
of total tax fixed
5. Corrected duplicate deliv-
ered to collector

Section 2. Property subject to tax; method of assessment. All real property within this state not expressly exempted by law or excluded from the operation of this article² shall be subject to annual taxation at its true value. Valuations shall be made by the assessors³ of the respective taxing districts, except that in the case of two or more taxing districts the limits of one or more of which are entirely within those of another, the valuations of the larger dis-

jority, however, has adopted the proposed schedule because it has felt the average state will not find it feasible to operate under narrower limits. Furthermore, as indicated in the introduction, this article is included purely for the purpose of providing a background against which to project the balance of the act.

²Since this article is intended merely to be a suggestive outline, such exemption provisions should be added as may be consonant with the policy of the particular state.

³Upon the adaptation of the model law to the law of any particular state it will probably be necessary to define or to make more specific many of the terms used herein. Some of the terms requiring definition or change are *assessor, board of taxation, taxing district, and governing body*. Those requiring to be made more specific are such terms as *chief financial officer* and *municipal charges which are a lien on real property*. For the purposes of the model law it is felt the terms are sufficiently plain without definition.

¹Some members of the Committee are of the opinion that too much time is allotted for the various steps in the tax procedure. The ma-

trict shall be the ones employed in the district or districts so included.⁴

Section 3. Period and method of assessing. The assessor shall begin the work of assessing real property annually on October first and shall complete the work by January tenth, on which date he shall attend before the board of taxation of the taxing district and file with it his complete assessment list together with a true copy thereof to be known as the assessor's duplicate. Said list shall be examined, revised, and corrected by the board as provided by law.

Section 4. Changes entered; amount of total tax fixed. The board of taxation shall cause to be entered upon the list and duplicate in appropriate columns all corrections and additions thereto which it may determine to make, and, after ascertaining the amount to be raised by taxation in the taxing district, the rate per dollar which, when applied to the total value of all taxable property shown on the list and duplicate, will be sufficient to produce the amount to be raised, and shall also cause to be extended on the list and duplicate the amount of tax computed upon each assessment at that rate.

Section 5. Corrected duplicate delivered to collector. The board of taxation shall, on or before July first in each year, cause the corrected, revised, and completed duplicate, certified by it to be a true record of the taxes assessed, to be delivered to the collector of the taxing district.

⁴The committee recommends that all taxes assessed against the same property be included in a single tax bill and collected by one taxing district. See footnote 17. In some states the assessment procedure here provided for overlapping taxing districts may be held unconstitutional because of home rule provisions. See *People ex rel. Town of Pelham v. Village of Pelham*, 215 N. Y. 374 (1915).

ARTICLE III

COLLECTORS

- Section 6. Collector to be appointed
7. Collector's bond

*Section 6. Collector to be appointed.*⁵ The collector of each taxing district shall be appointed by the chief financial officer thereof for a term of three years, but in the event of failure to appoint his successor at the expiration of his term of office he shall continue to hold office until his successor is appointed and qualifies in his stead. Vacancies in the office of collector shall be filled by the chief financial officer of the district for the balance of the unexpired term.

Section 7. Collector's bond. The collector shall, before the delivery to him of the tax duplicate for any year, give a surety bond for the faithful performance of his duties, including compliance with all controlling provisions of law bearing upon the functions of his office, in a form approved by the state tax commissioner and in such sum, not less than the amount established by the commissioner, as shall be fixed by the governing body of the taxing district. A copy of such bond shall be delivered to the commissioner.

ARTICLE IV

COLLECTION OF TAXES

- Section 8. Preparation and delivery of tax bills
9. Description of tax bill
10. Taxes payable in installments; may be received at any time
11. Tax a lien
12. Penalties and interest

Section 8. Preparation and delivery

⁵In small communities, where the chief financial officer can himself act as collector, the Committee suggests that he do so. This section is not intended to compel duplication of functions.

of tax bills. As soon as the duplicate is delivered to the collector of the taxing district he shall at once begin the work of preparing, completing, mailing, or otherwise delivering tax bills to the owners of property assessed so far as such owners are known, and shall complete such work on or before July fifteenth. The validity of any tax or the time at which the same shall be payable shall not be affected by the failure of the collector to mail or otherwise deliver a tax bill.

Section 9. Description of tax bill.

Each tax bill shall contain a statement of the valuation of the property against which the tax is levied, the full amount of the tax for the year, the amount payable as each instalment, the due dates thereof, the penalties for delinquency, and the remedies available against the taxpayer. There shall be a detachable stub for each instalment, containing the amount thereof, its number, and a place for receipt when the instalment is paid.⁶ Each tax bill shall also have printed thereon a brief tabulation showing the distribution of the amount raised by taxation in the taxing district, in such form as to disclose the number of cents in each tax dollar applicable to the payment of state, county, and school taxes, when included in the bill, and to local expenditures.⁷ The last named item may be further subdivided so as to show the amount applicable to the several departments of the government of the taxing district.

Section 10. Taxes payable in instalments; may be received at any time.

(a) Taxes shall be payable in four

⁶This provision has met with some objection on the ground that such details are not the proper subject of statute law. It is felt, however, that in no other way than by the inclusion of such minutiae in the tax law itself can the present loose practices be eliminated. The same end may conceivably be accomplished by requiring bills to be rendered in quadruplicate

⁷See footnote 4.

equal instalments⁸ due the first days of August, November, February, and May. Failure to pay on the date due shall cause the instalment to become delinquent and shall subject the property assessed to the penalties hereinafter provided.

(b) No payments shall be applied to any instalment until all previous instalments of taxes for the same year have been paid.

(c) Taxes may be paid in full at any time. Payments of taxes on account may be made at any time either before or after their due date in amounts of not less than five dollars or multiples thereof.⁹ If the tax for the current year has not yet been fixed, such payments may be made on the basis of taxes of the preceding year. Any overpayment shall be refunded immediately upon the determination of the current tax. No discount shall be allowed, however, for the payment of the whole or any part of the tax before it is due.¹⁰

⁸Some Committee members favor a mandatory requirement of only two instalments, with four permissive.

⁹Some objection has been raised to this provision on the ground of bookkeeping difficulties. There is some disagreement, however, as to the actual extent of these difficulties, and it is felt that any which may arise will be more than offset by the increased return which experience has shown results from allowing partial payments. Furthermore, a unit as small as five dollars is necessary in order that as a practical matter the privilege may be available to taxpayers in the less heavily populated taxing districts.

¹⁰The prohibition of discounts does not have unanimous assent. Those in favor of permitting discounts urge it as a convenient device for the stimulation of payment and thus avoiding the necessity for borrowing in anticipation of taxes. Experience has shown, however, that advantage is taken of discounts only by those large taxpayers who normally pay in any event. While the majority of the Committee is eager to make tax borrowing unnecessary, it feels that the proper method of approach is to provide for the instalment payment of taxes, which has the added advantage of preventing any unforeseen diminution in municipal income. In this view of the matter the allowance of discounts is justifiable only as a temporary expedient pending a revision of the tax calendar.

Section 11. Tax a lien.

(a) All unpaid taxes on real property, together with penalties and costs of collection, shall be a lien on the real property on which they are assessed upon delinquency.¹¹ All other municipal charges which are liens on real property shall become liens on the respective dates fixed by law. The phrase "municipal liens" when hereafter used in this act, shall be construed to embrace both the liens for unpaid taxes, penalties, and costs, and the liens for other municipal charges.

(b) Municipal liens shall be first liens and paramount to all prior and subsequent alienations and descents of the property or encumbrances thereon, except subsequent municipal liens.

Section 12. Penalties. The following penalties are hereby prescribed for failure to pay any instalment of taxes when due: 1 per cent of said instalment if paid during the first two months following the due date; 3 per cent if paid during the next three months; 4, 5, 6, 7, 8, 9, and 10 per cent if paid during the sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth months respectively; five-sixths of 1 per cent shall be added on the first of each month if paid thereafter until the property is sold.¹²

ARTICLE V

COLLECTION OF DELINQUENT TAXES BY
APPOINTMENT OF RECEIVER OF RENTS
AND INCOME*Section 13. Appointment of receiver*

¹¹This provision should be adapted to the existing rule in each particular state. Where the lien now attaches upon assessment or levy no change should be made. To alter the rule would be to upset many security transactions, since, particularly in the case of mortgages, clauses are common stipulating for default in the event of the attachment of other liens.

¹²A variety of penalty rates has been suggested, with two main lines of difference, some preferring the rate to be heavy at first and tapering toward the end, others preferring the arrangement here provided. To facilitate administration, per annum rates have been avoided.

14. Appointment of mortgagee as receiver's agent
15. Title and powers of the receiver
16. Termination of receivership
17. Disposition of excess funds collected
18. Other receivers
19. Property excepted

Section 13. Appointment of receiver.

At any time after any tax or any instalment thereof heretofore or hereafter levied and assessed against real property in any taxing district or any municipal charges which are a lien on real property shall have been delinquent for more than six months, the collector may,¹³ by and with the approval of the governing body of such taxing district and upon five days' notice posted upon such real property, make application by petition to the [here insert proper court], or a justice thereof, in the county where such real property is situated, to be appointed receiver ex officio of the rents and income of such real property for the purpose of satisfying out of such rents and income accrued and to accrue all municipal liens on such real property, together with the penalties thereon and the costs and expenses of the receivership. The order appointing the receiver shall be entered in the office of the clerk of the county where the real property in question is situated. Such receiver shall not be required to give bond other than his official bond as collector, and shall be appointed only for the purpose of satisfying the municipal liens, penalties and costs and expenses as aforesaid.

Section 14. Appointment of mortgagee as receiver's agent. Upon his ap-

¹³A substantial number of the Committee would prefer this word to be "shall." The majority feels, however, that so to change the nature of the remedy would be to deprive it of a major virtue—flexibility.

pointment the receiver, by and with the approval of the governing body of such taxing district, in all cases where the real property in question is encumbered by a first mortgage, may appoint the first mortgagee, if such first mortgagee is deemed by the receiver a proper person and is willing to accept such appointment, as the receiver's agent to collect the rents and income from such real property.¹⁴

Section 15. Title and powers of the receiver. The title of the receiver to the rents and income from such real property shall be the same as that of an assignee thereof, and he shall have all of the powers of such an assignee. He may pay out of the rents and income collected by him from such real property such expenses in connection therewith as may be necessary to keep the same in a tenable condition. The receiver may act through deputies or agents. The receiver may insure the property against loss by fire or other casualty.

Section 16. Termination of receivership. Such receiver may resign with respect to any parcel of real property at any time by filing in the office of the clerk of the county where the order appointing him is entered a written resignation. Upon the satisfaction of all of the municipal liens, penalties, and costs and expenses with respect to any parcel of real property he shall file in such office a written statement that the receivership has terminated.

Section 17. Disposition of excess funds collected. Upon the resignation of the receiver, or upon the full satisfaction of the municipal liens, penalties, and costs and expenses payable from the rents and income of any parcel of real

estate with respect to which he is receiver, the collector shall pay into the [here insert proper court] in the county in which the order appointing him is entered any funds remaining in his hands over and above the municipal liens, penalties, and costs and expenses payable therefrom, subject to payment out of court in accordance with the applicable provisions of law.

Section 18. Other receivers. In all cases where the collector is made receiver of the rents and income of property where some other receiver is already entitled to the rents and income by virtue of appointment in a suit, action, or proceeding at the instance of a private party, it shall be the duty of such other receiver after deducting the expenses of collection to pay over to the collector all of the rents and income thereafter collected in priority to all other charges until the municipal liens, penalties, and other charges and costs and expenses shall be fully satisfied.

Section 19. Property excepted. The remedy of collecting delinquent taxes herein provided for shall not apply to real property occupied by the owner as his residence or to farm property occupied by the owner thereof, provided that no part of an owner's real property from which part he derives rent shall be deemed to be occupied by the owner thereof.

ARTICLE VI

PERSONAL LIABILITY FOR TAXES

Section 20. Personal liability for real property taxes

Section 20. Personal liability for real property taxes. Residents¹⁵ of the state who are owners of real property within

¹⁴There is some opposition to having the first mortgagee appointed as the receiver's agent, but the interest he has in preventing the subordination of his lien appears to justify this provision.

¹⁵Personal liability for real property taxes has been limited to residents of the state because to attempt to impose such liability upon non-resident taxpayers would probably be unconstitutional. *Dewey v. Des Moines*, 173 U. S. 193 (1898); *City of New York v. McLean*, 170 N. Y. 374 (1902).

the state shall be personally liable for taxes levied against such property, such liability to be enforced by appropriate action as for a debt. The word "taxes" herein shall include, in addition to the principal amount thereof, all penalties and costs of collection.

ARTICLE VII

COLLECTION OF DELINQUENT TAXES BY SALE OF REAL PROPERTY

- Section 21. Sale of real property for delinquent taxes
22. Consolidation of liens
 23. Certain property may be omitted from sale
 24. Notice of sale
 25. Payment of tax before sale
 26. Sale may be continued
 27. Sale at auction
 28. Purchase by taxing district
 29. Mandatory duty to enforce liens
 30. Where certificate of sale held by taxing district, property assessed in owner's name
 31. Certificate of sale
 32. Certificate of sale may be recorded
 33. Certificate of sale as evidence

Section 21. Sale of real property for delinquent taxes. On the October first following the end of the fiscal year in which any outstanding municipal lien on real property shall have attached, the collector shall enforce all municipal liens accruing prior to such October first by sale of the property as set forth in the following sections.¹⁶

¹⁶In a sense, perhaps, it is the lien which is sold. It is desired, however, to use the language of property sales in order to emphasize the fact that another sale is not required on foreclosure. A title subject to being divested by redemption is not an anomaly in the law.

Section 22. Consolidation of liens. When any parcel of real property lies wholly or partly within the boundaries of two or more taxing districts, the liens of all taxing districts thereon shall be consolidated and shall be enforced by one of such taxing districts as provided by law. Distribution of the proceeds of the sale of such property, or, if the property is sold to the taxing district, of the amount received in redemption thereof or of the proceeds of private sale of the certificate of sale as provided by section 28, shall be made as otherwise provided by law.¹⁷

If, in the absence of redemption, the taxing district which purchased the property does not foreclose within two years of the sale or if, after foreclosure, such taxing district continues to hold the property for more than one year, such taxing district shall pay the amounts charged against the property owing to all other taxing districts.

*Section 23. Certain property may be omitted from sale.*¹⁸ In the discretion of the collector property may be omitted from the sale,¹⁹ the municipal liens on

¹⁷A solution of the problems arising from the existence of overlapping taxing districts can be no more than suggested in a model law of this character. Ideally, the collection of all taxes assessed against the same property should be consolidated. But the details of this consolidation can only be worked out in the light of the existing governmental structure in each particular state.

¹⁸The model tax collection law is intended for normal, not abnormal, times. Consequently, it does not contemplate as a point of departure a situation where tax sales have not been held for a large number of years. If such is the case, it may be necessary to provide for the omission of property heavily burdened with unenforced municipal liens if those liens are being discharged according to some instalment program involving, for example, the payment of not less than a year and a quarter's taxes annually. Such a measure would, of course, be purely a temporary one and would be inoperative once tax sales were up to date.

¹⁹The Committee has drafted no separate provision imposing the obligation on the collector to compile a list of delinquent proper-

which amount to less than \$10 until the third October first following the fiscal year during which such liens become a charge upon the property.

Section 24. Notice of sale. The collector shall give public notice of the time and place of sale. Such notice shall be published once in the first and once in the last of the four calendar weeks preceding the calendar week containing the day appointed for the sale in a newspaper of general circulation in the taxing district and which has circulated generally in the taxing district for at least one year prior to the date of such publication. It shall also be posted in five conspicuous public places at least four weeks before the day appointed for the sale. The notice shall contain a description of the real property to be sold as it appears upon the duplicate,²⁰ the owner's name if known, and the amount due with penalties and costs.²¹ If the owner's name and address are known, the collector shall mail him a copy of the notice prepaid. Failure to

mail such notice shall not invalidate any proceeding hereunder.

Section 25. Payment of tax before sale. At any time before sale the collector shall receive payment of the amount due on any property together with penalties and costs to the time of payment.

Section 26. Sale may be continued. The sale shall be held on the day and at the place stated in the notice, but if the sale cannot be completed on such date the collector shall continue²² the same from day to day until all property is sold. The sale shall begin on each day at 10 a. m. and shall continue until 4 p. m. unless sooner completed.

Section 27. Sale at auction. Sale shall be at public auction for the amount of the municipal liens to the person who will purchase the property subject to redemption at the lowest rate of interest,²³ not in excess of 12 per cent per annum. The purchaser shall be entitled to a semiannual payment of the interest stipulated at the sale and to prompt payment when due of all subsequent taxes and other municipal charges which by law may become a lien upon the property. The failure of the owner to comply with these requirements shall give rise to an immediate right in the purchaser to foreclose the right of redemption.

Section 28. Purchase by taxing district. The officer making the sale shall

ties. There appears to be no reason why the record standing on the collector's books plus the requirements of Section 24 should not be sufficient for the purposes of this Act. A different problem might be presented if the collector were required to certify such a list to some other officer, but, where a single officer is in control of all steps in collection procedure, such matters as the compilation of delinquent lists pertain to office routine and may be safely left to that officer's discretion.

²⁰The suggestion has been made that the description be by block and lot number or by lot and sublot, but the consensus of opinion is that no single method of description can be devised which will be equally feasible for both the large and the small community. The Committee can do no more than provide that whatever method of description be chosen, it be uniform throughout all proceedings.

²¹Some difference of opinion exists as to the necessity for such an elaborate notice of sale. Perhaps the actual publication might be confined to a notice of the time and place of sale and a designation of some convenient place where the delinquent list might be examined by parties interested. In view of traditional methods, however, some hesitancy is felt about relaxing to too great an extent the requirements of Section 24.

²²The language of continuance rather than of adjournment is used to emphasize the fact that the section does not provide for postponement. Every effort should be made to avoid even the possibility of perpetuating the unfortunate practices of the past.

²³One member of the committee would prefer the sale to be on the basis of the highest amount bid for the property, in view of the fact that no provision is made for a second sale upon foreclosure. It is felt, however, that the right to redeem will adequately protect the delinquent owner and that as a practical matter under any other method of sale the property would be unlikely to bring more than under the method here provided.

strike off and sell to the taxing district for redemption at 10 per cent per annum any parcel of real property for which there shall be no other purchaser. The taxing district shall have the same remedies and rights with respect to such property as other purchasers, including the right to foreclose the right of redemption. The governing body thereafter may authorize a private sale of the certificate of sale therefor for not less than the amount stated in the certificate of sale and the municipal liens subsequently charged against the property.²⁴

Section 29. Mandatory duty to enforce liens. All municipal liens shall be enforced by sale, unless excepted pursuant to the provisions of section 23 of this act, on the date fixed in section 21, but the failure of the collector so to enforce a municipal lien shall not impair the lien, or prevent a sale or any other proceedings for its enforcement after the time therein specified. Upon failure of the collector to proceed to enforce any municipal lien within three months of the time limited above or to conduct the sale in the manner provided by law, his office shall immediately become vacant and the state tax commissioner shall in his stead and at the expense of the taxing district forthwith enforce such municipal lien by a sale of the property in the manner provided by law.²⁵ The state tax com-

missioner shall, for all purposes for which other provision has not been made by law, including but not limited to the conduct of the sale, be deemed to be the acting collector of such district. The chief financial officer of the taxing district shall within thirty days appoint a suitable person who can give the required bond to fill the vacancy in the office of collector of taxes thus created for the balance of the unexpired term. Upon his failure so to do the state tax commissioner shall make such appointment.

Section 30. Where certificate of sale held by taxing district, property assessed in owner's name. If the certificate of sale is held by the taxing district all subsequent taxes and other municipal charges shall be assessed against the property in the name of the owner as though there had been no sale, until the right of redemption is barred. All taxes and other municipal charges accruing against the property subsequent to those for which the property was sold, together with penalties and costs, shall be additional liens on the property which must be paid before redemption. There shall be no further sale of such property unless directed by resolution of the governing body.

Section 31. Certificate of sale. The collector immediately after the conclusion of the sale shall deliver to the purchaser a certificate of sale under his hand and seal, acknowledged by him as a conveyance of land, which shall set forth that the property therein described was sold by him to the purchaser, the date of sale, the amount for which the property was sold, the description of the property, the name of the owner if known, the rate of redemption, the date to which liens are included, and the

²⁴Several members of the Committee have suggested that some provision should be made for private sale for less than the amount here specified. The possibilities of favoritism would, however, be great. It is submitted that any disposition on such terms might well be postponed until after the right of redemption has been foreclosed and the property is irrevocably the property of the taxing district.

²⁵In order to give life to this provision the laws creating the office of state tax commissioner should empower him to require reports from local collectors as to the conduct of their offices and should provide him with a sufficient staff and adequate facilities for the performance of his functions under this act. It would not be amiss to provide also for

general supervisory powers relative to the employment of modern bookkeeping and accounting methods by local collecting officers.

time when the right to redeem will expire. No other statements need be included in the certificate.

Section 32. Certificate of sale may be recorded. The purchaser may record the certificate of sale as a mortgage in the office of the clerk or register of deeds of the county in which the property is situated. When the certificate is not made to the taxing district, it shall, unless so recorded within three months of the date of sale, be void as against a bona fide purchaser, lessee, or mortgagee whose deed, lease, or mortgage is recorded before the recording of the certificate.

Section 33. Certificate of sale as evidence. The certificate of sale shall be presumptive evidence in all courts in all proceedings by and against the purchaser, his representatives, heirs, and assigns, of the truth of the statements therein, of the title of the purchaser to the property therein described, and the regularity and validity of all proceedings had in reference to the taxes and other municipal charges for the non-payment of which the property was sold and to the sale thereof. After two years from the recording of the certificate of sale, no evidence shall be admitted in any court to rebut such presumption, unless the holder thereof shall have procured the certificate of sale by fraud, or had previous knowledge that it was fraudulently made or procured.

ARTICLE VIII

REDEMPTION

- Section 34. Right of redemption
35. Amount required to redeem
36. Redemption in instalments if certificate is held by taxing district
37. Amount required if certificate is not held by taxing district

38. Holder of certificate of sale entitled to expenses.

Section 34. Right of redemption. The owner, mortgagee, occupant, or other person having an interest in property sold for municipal liens may redeem it at any time within one year²⁶ from the date of sale, or at any time thereafter until the right to redeem has been foreclosed²⁷ in one of the manners provided by law, by paying to the collector for the use of the purchaser, his heirs or assigns, the amount required for redemption.

Section 35. Amount required to redeem. The amount required for redemption shall be the amount stated in the certificate of sale with interest from the date of sale to the date of redemption at the rate of redemption for which the property was sold, the expenses incurred by the purchaser as provided in section 38, and subsequent municipal liens as provided in sections 30 and 37.

Section 36. Redemption in instalments if certificate is held by taxing district. If the certificate of sale is held by the taxing district, the collector may, with the approval of the governing body of the taxing district, enter into an agreement for the redemption of the property in substantially equal instalments, in amounts at least sufficient to redeem the property within five years. After the payment of the first instalment, the taxing district shall not assign the certificate of sale or take any action

²⁶One year may seem too short a period to allow for redemption. It is submitted, however, that, when viewed in the light of the length of time elapsing between delinquency and sale, the period is adequate.

²⁷Some states at present provide for an administrative foreclosure of the right to redeem or for some other method less formal than court proceedings. It has been found, however, that titles so acquired do not inspire confidence and it has been thought useless to burden the Model Law with provisions seldom used and upon which title companies will refuse to rely.

to cut off or foreclose the right of redemption so long as the instalments shall be paid when due and no default shall exist in the payment of taxes and other municipal charges accruing subsequent to the date of the execution of the agreement.

Section 37. Amount required if certificate is not held by the taxing district. If the certificate of sale is not held by the taxing district, the amount required for redemption shall include the amount of taxes and other municipal charges accruing against the property subsequent to those for which the property was sold and costs, actually paid by the holder of the certificate of sale or his predecessors in interest, provided the holder of such certificate of sale shall have made and filed with the collector an affidavit showing the amount of such payments, together with an amount equivalent to the penalties which would have accrued to the taxing district on such subsequent taxes and other municipal charges from the date when such taxes and other municipal charges became or would have become delinquent to the date of redemption.

Section 38. Holder of certificate of sale entitled to expenses. In addition to the fees actually paid for recording the certificate of sale and his actual expenses in connection with such advertising in a newspaper as may be required by law, the holder of the certificate of sale shall be entitled upon redemption to be reimbursed for such sums not in excess of \$12.00 as he may actually have paid for other recording fees, fees for service of notices necessarily and actually served, and fees for expenses in connection with ascertaining the persons interested in the property sold, provided the holder of the tax certificate shall file with the collector an affidavit showing the amount of such fees or expenses.

ARTICLE IX

FORECLOSURE BY PROCEEDINGS *IN PERSONAM*

- Section 39. Action to foreclose right of redemption
40. Foreclosure against several parcels in one proceeding
41. Jurisdiction of court
42. Unknown owners
43. Payment of subsequent liens required

Section 39. Action to foreclose right of redemption. The holder of any certificate of sale, his heirs or assigns, in addition to other remedies provided by law, may at any time after the expiration of one year from the date of sale, whether notice to redeem has been given or not, or upon default in the payment of interest or taxes or other municipal charges which may become a lien upon the property accruing subsequent to the sale, bring an action to foreclose the right of redemption. The right to redeem shall nevertheless continue until barred by the court.

Section 40. Foreclosure against several parcels in one proceeding. Any single holder of certificates of sale with respect to several parcels of real property in the same taxing district, regardless of ownership, may foreclose the right of redemption relative to any number of such parcels in a single proceeding.

Section 41. Jurisdiction of court. The court before which the action is brought shall have the same jurisdiction as in the case of mortgage foreclosures and its final judgment shall give the holder of the certificate of sale title in fee simple, barring all encumbrances except municipal liens accruing subsequent to those for which the property was sold. No application shall be entertained to reopen the judgment after three (3) months from its date except

on the ground of lack of jurisdiction or fraud in the conduct of the action. If the judgment is set aside on the ground of lack of jurisdiction, the amount required to redeem shall be the amount required by the provisions of Article VIII of this act and in addition thereto the reasonable value at the date the judgment is set aside of all improvements made on the property by the purchaser thereof and his successors in interest minus any net income derived from the use of the property. In arriving at such net income, the value of the improvements shall not be deducted from the gross income except to the extent of the excess of the original cost over the value at the date the judgment is set aside.

Section 42. Unknown owners. In the event the owner or owners or any of them are unknown after such inquiry as may be prescribed by the court, the action shall proceed as though they were known, the unknown owners being made parties to the proceedings by the designation "unknown owner, his heirs, devisees and personal representatives, and their or any of their heirs, devisees, executors, administrators, grantees, assigns or successors in right, title or interest."

Section 43. Payment of subsequent liens required. Except in proceedings where the taxing district is plaintiff, no judgment shall be granted foreclosing the right of redemption unless all municipal liens on the property accruing subsequent to those for which the property was sold shall have been discharged.

ARTICLE X

FORECLOSURE BY PROCEEDINGS *IN REM*

Section 44. Alternative procedure in rem

45. Combination of causes of action
46. Order for service of sum-

mons by publication: contents

47. Time of publication: when service complete
48. Papers to be filed on service by publication
49. Proof of service of summons
50. Service on infants, incompetents, and non-residents
51. Notice of pendency of action
52. Procedure

Section 44. Alternative procedure in rem. In addition and as an alternative to foreclosure by proceedings *in personam* the holder of any certificate of sale may proceed *in rem* to foreclose the right of redemption²⁸ by describing the defendants (in lieu of naming them) in the summons and other papers in the action substantially as follows: "The persons having or claiming to have an interest in the parcel or parcels of real property described in the notice annexed to the summons herein and numbered ——— [proper number or numbers being inserted here]," provided that said summons have annexed to it a notice subscribed by the plaintiff's attorney substantially in the following form, the blanks being properly filled, containing an accurate and intelligible description of the real property:

TO THE DEFENDANTS ABOVE DESCRIBED:

The foregoing summons is served upon you by publication pursuant to an order of ——— [giving the judge and his official title], dated the ——— day of ———, 19—, and filed with the complaint in the office of the Clerk of ——— at ———. This action is brought against the real property only and is to foreclose the lien of the own-

²⁸There can be no constitutional objections to foreclosure by this method. See *Leigh v. Green*, 193 U. S. 79 (1904).

er of a certificate or certificates of sale of real property sold for taxes and other municipal charges. No personal judgment will be entered herein for such taxes and other municipal charges, or any part thereof. This summons is directed to the persons having or claiming to have an interest in said real property, which is bounded and described as follows:

Parcel No. 1 [Here insert description]

Parcel No. 2 [Here insert description]

Parcel No. 3 etc.

Section 45. Combination of causes of action. In any such action where the plaintiff elects to proceed *in rem* he may combine in one action as many causes of action as he desires whether the liens to which they relate affect the same or different parcels, so long as all of the parcels affected lie within the same taxing district.

Section 46. Order for service of summons by publication: contents. In any such action where the plaintiff elects to proceed *in rem* the plaintiff shall be entitled to an order for the service of the summons by publication. Said order must direct that such service be made by publication thereof in two newspapers in the English language designated in the order as most likely to give notice to the defendant or defendants to be served, for a specified time, not less than once in each of six successive weeks.²⁹ It must also contain a direction that on or before the day

²⁹There has been a suggestion that this period be shortened. The procedure should not be made so summary, however, that it is open to the charge that it denies due process. *Roller v. Holly*, 176 U. S. 398 (1899). Six weeks appears to be a sufficiently common provision relative to the service of summons by publication to warrant its use in this connection, though the proceedings are *in rem* and jurisdiction *in personam* is not essential. The courts insist that a reasonable opportunity be given to defend.

of the first publication the plaintiff post upon each parcel of real property to be affected by the action a copy of the summons and notice, provided that the descriptions of any parcels of real property other than the one upon which the summons is posted may be omitted from the notice annexed to the copy of the summons posted upon such parcel.

Section 47. Time of publication: when service complete. In any such action where the plaintiff elects to proceed *in rem* the first publication of a summons in each newspaper designated in the order therefor must be made within three (3) months after the order is granted. For the purpose of reckoning the time within which the defendant must appear or answer, service by publication is complete on the forty-second day after the day of the first publication.

Section 48. Papers to be filed on service by publication. In any such action where the plaintiff elects to proceed *in rem* the summons, complaint and order and the papers on which the order was made must be filed with the clerk on or before the day of the first publication.

Section 49. Proof of service of summons. In any such action where the plaintiff elects to proceed *in rem* proof of service of the summons and notice shall be made as follows:

1. Proof of publication of a summons and notice must be made by the affidavit of the printer or publisher or his foreman or principal clerk.
2. Proof of posting of a copy of the summons and notice upon each parcel of real property to be affected must be made by the affidavit of the person who posted them.

Section 50. Service on infants, incompetents, and non-residents. In any

such action where the plaintiff elects to proceed *in rem* service by publication as hereinabove provided shall be valid and effective with respect to all defendants even though one or more of them may be infants, incompetents, or non-residents.

Section 51. Notice of pendency of action. Upon the commencement of proceedings as herein provided, the plaintiff shall file in the office of the clerk or register of deeds of the county in which such real property is situate a notice of the pendency of the action, together with a brief description of the property.

Section 52. Procedure. The pro-

visions of Article IX so far as applicable shall apply to any such action where the plaintiff elects to proceed *in rem* except as in this article otherwise provided.

ARTICLE XI

SEVERABILITY OF PROVISIONS

Section 53. Severability of provisions.

Section 53. Severability of provisions. If any provision of this act, or the applicability thereof to any person or circumstances, is held invalid, the remainder of this act and the applicability thereof and of such provision to other persons or circumstances shall not be affected thereby.

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